

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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STEVEN KELLY,

Plaintiff,

-against-

PAUL VESNAVER BOTH INDIVIDUALLY
AND AS AN ATTORNEY/PRINCIPAL IN
THE LAW FIRM OF PAUL VESNAVER PC;
GENESIS PARTNERS, LLC, JOHN TIDROW
INDIVIDUALLY; BRUCE KLEIN
INDIVIDUALLY; MATTHEW OLUGBENGA
AWORENI INDIVIDUALLY AND
HONEYFIELD INVESTMENTS LTD.,

Defendants.

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**ORDER ADOPTING REPORT
AND RECOMMENDATION**
16-CV-883(DRH)(SIL)

On July 20, 2017, this Court *sua sponte* issued an Order to Show Cause directing plaintiff to show cause why the amended complaint should not be dismissed for lack of subject matter jurisdiction. As set forth in that Order to Show Cause after a review of the amended complaint it appeared that diversity jurisdiction may be lacking because (1) only the residency - not the citizenship - of the individual defendants was alleged; (2) the allegations of the citizenship of the limited liability companies did not include the citizenship of natural persons who are members of a limited liability company and the place of incorporation and principal place of business of any corporate entities who are members of the limited liability company; and (3) assuming that the citizenship of the individual defendants was the same as their alleged residence, complete diversity was lacking given the allegations that both plaintiff and defendant Klein “reside” in Florida. After receipt of plaintiff’s response to the Order to Show Cause, the matter was referred to Magistrate Judge Steven I. Locke for a report and recommendation.

Presently before the Court is the January 11, 2018 Report and Recommendation (the “R&R”) of Judge Locke recommending that this action be dismissed for lack of subject matter jurisdiction. Plaintiff has filed objections to the R&R; however, the total sum of the objections are as follows: “COMES Now, the Plaintiff, Steven Kelly, and objects to the Report and Recommendation filed with this Court and respectfully moves that this honorable Court rule in his favor with regard to the Order to Show Cause.”

Given the absence of specific objections to the R&R, plaintiff has waived any objections to the R&R and the appropriate standard of review is clear error. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758,766 (2d Cir. 2002) (“[B]are statement, devoid of any reference to specific findings or recommendations to which he objected and why, and unsupported by legal authority, was not sufficient to preserve [plaintiff’s] claim. Merely referring the court to previously filed papers or arguments does not constitute an adequate objection under either Fed. R. Civ. P. 72(b) or [Western District of New York] Local Civil Rule 72.3(a)(3).”)

Pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, this Court has reviewed the Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. Accordingly, the Court adopts the January 11, 2018 Report and Recommendation of Judge Locke as if set forth herein. Accordingly,

IT IS HEREBY ORDERED THAT this case is dismissed for lack of subject matter jurisdiction. The Clerk of Court is directed to enter judgment accordingly and to close this case.

Dated: Central Islip, New York
February 23, 2018

/s/ Denis R. Hurley
Denis R. Hurley
United States District Judge